

## LEGAL NOTICE TO SHERIFFS AND ALL LAW ENFORCEMENT

Right of a citizen to drive for travel on a public street with freedom from police interference.

The United States Supreme Court in Wash. State Dep't of Licensing v. Cougar Den, Inc., 139 S. Ct. 1000 Supreme Court of the United States October 30, 2018, argued; **March 19, (2019)** Decided.

Holding: The Supreme Court, Justice Breyer, joined by Justice SOTOMAYOR and Justice KAGAN, Justice GORSUCH, & Justice GINSBURG joins, concurring in the judgment held: that: Washington's fuel tax burdened the treaty right of the Yakama Nation to travel upon all public highways in common with citizens of the United States, the Washington tax, as applied to its activities, is pre-empted by an 1855 treaty between the United States and the Yakama Nation that, among other things, reserves the Yakamas' "right, in common with citizens of the United States, to travel upon all public highways," 12 Stat. 953.

They Recognized a reservation of certain rights in treaty. Arts. III-V, 12 Stat. 952-953. **Those reserved rights include "the right, in common with citizens of the United States, to travel upon all public highways,"** "the right of taking fish at all usual and accustomed places, in common with citizens of the Territory," and other rights, such as the right to hunt, to gather roots and berries, and to pasture cattle on open and unclaimed land. Art. III, id., at 953.

To summarize, the holding rests upon three propositions: First, a state law that burdens a treaty-protected right is pre-empted by the treaty. The plurality simply assumes that the right to travel with goods is an additional, substantive right when it reasons that the fuel tax is preempted because it taxes an "integral feature" of travel with goods. Ante, at 203 L. Ed. 2d, at 315. The concurrence makes the same assumption when it compares the fuel tax to a tax on "'possession' of fish" Ante, at 203 L. Ed. 2d, at 321. That tax would be preempted because "taking possession of fish" is just another way of describing the act of fishing.

Instead, they suggest that the Yakamas understood the treaty's right to-travel provision to provide them "with the **right to travel on all public highways without being subject to any licensing and permitting fees related to the exercise of that right** while engaged in the transportation of tribal goods. The Yakama treaty is like the American Peoples Constitution. Remember they share **"the right, in common with citizens of the United States, to travel upon all public highways without being subject to any licensing and permitting fees related to the exercise of that right** found at **16A Am. Jur. 2d Constitutional Law § 624**. "Rights in public vehicles and places for purposes of liberty interest of Due Process Clause" 2021 Update. **Which reads:**

Under the constitutional guarantee of liberty one may, under normal conditions, move at his or her own inclination along the public highways or in public places, and while conducting himself or herself in an orderly and decent manner, neither interfering with nor disturbing another's rights, one will be protected, not only in his or her person, but in his or her safe conduct.<sup>1</sup> **For example, the right of a citizen to drive on a public street with freedom from police interference, unless he or she is engaged in suspicious conduct associated in some manner with criminality, is a fundamental constitutional right.**<sup>2</sup> However, the liberty of each individual in a **public vehicle** or public place is subject to reasonable limitations in relation to the rights of

others.<sup>3</sup> **16A Am. Jur. 2d Constitutional Law § 624.** “Rights in public vehicles and places for purposes of liberty interest of Due Process Clause” 2021 Update.

A “public vehicle” is defined as “[a] vehicle seeking employment from the general public.” Webster’s New International Dictionary 2005 (2d ed. 1956). **A “public vehicle” is a for hire vehicle. The use of highways for the purpose of transporting persons or property for hire**, by the ordinary means, is incidental to and consistent with the primary purpose of their establishment, and is therefore a proper use, in the absence of any restrictive regulation.<sup>1</sup> Such use is not, however, one which may be exercised as of right, but **is a special or permissive use** <sup>2</sup> [a privilege] ... **7A Am. Jur. 2d Automobiles § 13 American Jurisprudence, Vehicles engaged in transportation for hire.** February 2021 Update. **The State claims driving is a special or permissive use a privilege.**

The Power of state to license or tax, Motor vehicle registration is a traditional government function.<sup>1</sup> Because the operation of a motor vehicle is a privilege, <sup>2</sup> the legislature of each state may, in the exercise of the police power, enact reasonable regulations requiring the licensing or registration of motor vehicles,<sup>3</sup> including the private motor carriers of property,<sup>4</sup> and public or common <sup>5</sup> carriers of persons or property for hire. **7A Am. Jur. 2d Automobiles § 60 Power of state to license or tax, generally.**

In addition, a motor vehicle license or registration fee or tax based upon seating<sup>4</sup> or load or carrying <sup>5</sup> capacity is not invalid when laid on motor carriers in interstate commerce, if there is no discrimination against them in contrast with those engaged in intrastate commerce. **7A Am. Jur. 2d Automobiles § 76 Load, carrying, or seating capacity of vehicle May 2021 Update**

In the absence of an Act of Congress covering the subject, a state may impose upon vehicles using its highways in interstate commerce nondiscriminatory regulations for the purpose of ensuring the public safety and convenience, and for the protection and conservation of the use of such highways.<sup>1</sup> Generally speaking, highway regulation has been left to states and localities, and traffic laws they enact must be applied both to intrastate and interstate traffic.<sup>2</sup> **7A Am. Jur. 2d Automobiles § 28. Regulations affecting interstate commerce November 2021 Update**

Licensing or registration enactments frequently are made applicable to motor carriers—that is, to vehicles operated for compensation or for hire. **7A Am. Jur. 2d Automobiles § 85 Motor carriers.** Because, the use of highways for the purpose of transporting persons or property for hire, is a special or permissive use, a privilege. **7A Am. Jur. 2d Automobiles § 13 Vehicles engaged in transportation for hire.**

A state may lawfully exercise its police power to protect the public health, safety, welfare, and morals by promulgating laws and regulations that reasonably regulate occupations.<sup>1</sup> However, an overbroad statute violates substantive due process by depriving a person of a constitutionally protected interest through means which are not rationally related to a valid state objective because it sweeps unnecessarily broadly.<sup>2</sup> The right of an individual to engage in any of the common occupations of life is among the several fundamental liberties protected by the Due Process and Equal Protection Clauses of the 14th Amendment.<sup>3</sup> However, neither the federal nor any state constitution secures to any person the liberty to conduct a business so as to injure the

public at large or any substantial group.<sup>4</sup> A statute constitutionally can prohibit an individual from practicing a lawful profession only for reasons related to the individual's fitness or competence to practice that profession. <sup>5</sup> Before the police power of the state is used to prohibit the conduct of an individual as unprofessional, offending actions that do not fall clearly within the scope of the proscription must be explicitly defined as wrongful.<sup>6</sup> **16A Am. Jur. 2d Constitutional Law § 356 Regulation of occupations pursuant to police power, generally. 2021** The police power cannot extend beyond the necessities of a case and be made a cloak to destroy constitutional rights as to the inviolateness of private property. *Scrutton v. Sacramento County*, 275 Cal. App. 2d 412, 79 Cal. Rptr. 872 (3d Dist. 1969).

Enumeration weakens the force of the general law as to things not expressed.<sup>1</sup> In this regard, the canon of construction *expressio unius est exclusio alterius* or *inclusio unius est exclusio alterius* holds that to express or include one thing implies the exclusion of another or of the alternative.<sup>2</sup> The maxim "*expressio unius est exclusio alterius*," that the mention of one thing in a statute impliedly excludes another thing, is used to determine legislative intent.<sup>3</sup> Under the general rule of statutory construction *expressio unius est exclusio alterius*, the expression of one or more items of a class implies that those not identified are to be excluded.<sup>4</sup> **73 Am. Jur. 2d Statutes § 120 Rule that expression of particular matters implies exclusion of others**

Motorcycles are lawful vehicles, and their rights on the highway are the same as those of automobiles.<sup>1</sup> **7A Am. Jur. 2d Automobiles § 12. Motorcycles and bicycles**

Now we know, to drive one's own car or motorcycle to travel about, isn't the same as driving **public vehicles for hire**.

This all proves beyond any reasonable doubt , that **Driving is a regulated Occupation For Hire & Operators/Driver(s) license is an Occupational License** see 16C C.J.S. Constitutional Law § 1531 Drivers' licenses PART VI. Privileges and Immunities; Equal Protection XVII. Subjects and Applications of Equal Protection Guarantee K. Taxation; Licenses, and License Taxes 2. **Licenses and License or Occupational Taxes** b. Motor Vehicles and Operators.

While the Court system, and prosecutors, with hold the pertinent exculpatory information, that **Driving is a regulated Occupation For Hire & Operators/Driver(s) license is an Occupational License** see 16C C.J.S. Constitutional Law § 1531 Drivers' licenses PART VI. Privileges and Immunities; Equal Protection XVII. Subjects and Applications of Equal Protection Guarantee K. Taxation; Licenses, and License Taxes 2. **Licenses and License or Occupational Taxes** b. Motor Vehicles and Operators.

**Ind. Code § 9-18-2-22 Additional fees, licenses, permits, and numbers prohibited; exception Effective: July 1, 2016 Sec. 22.** A person that:

(1) owns a motor vehicle, except a person that owns a truck or motor vehicle used in transporting passengers or property for hire; and

(2) has obtained a certificate of registration under this title; is not required to pay another license fee, obtain any other license or permit to use or operate the motor vehicle on the highways, or display upon the motor vehicle any other number other than the number issued by the bureau.

(2016) Ind. Code § 9-18-2-22 exempts those traveling and **not for hire**; because, **a state may not impose a charge for the enjoyment of a right granted by the United States Constitution. 51 Am. Jur. 2d Licenses and Permits § 7 Taxing power of state Constitutional Law May 2021 Update.**

**Further, Ind. Code § 9-18-2-22 Additional fees, licenses, permits, and numbers prohibited; exception Effective: July 1, 2016 was required through 7A Am. Jur. 2d Automobiles § 65 Preemption by federal legislation** Now as 49 C.F.R. § 390.3 (f)(3) General applicability. Exempts: The occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise. So must the state Exempt: The occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.

Through this same Preemption by federal legislation in **7A Am. Jur. 2d Automobiles § 65** the states are bound by the Federal definition of what a motor vehicle is.

The Motor Vehicle Safety Act<sup>1</sup> does not generally preempt the field of regulation of motor vehicle safety,<sup>2</sup> but it does preempt state standards relating to the same subject that are either more or less stringent than the federal standards.<sup>3</sup> **7A Am. Jur. 2d Automobiles § 18 Federal regulation—Preemption of state and local regulation.**

The Federal definition found at **18 U.S.C.A. § 31 (6) . Definitions § (6)** Motor vehicle. --The term “motor vehicle” means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo. This pre-empts the states standard of what a “motor vehicle” is.

**18 U.S.C.A. § 31 (10) Used for commercial purposes.**--The term “used for commercial purposes” means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

Also see: **49 U.S.C.A. § 13102 (16) Definitions Motor vehicle.**--The term “motor vehicle” means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in **transportation**, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service. This also pre-empts the states standard of what a “motor vehicle” is.

**49 U.S.C.A. § 13102 (23) Definitions Transportation.** --The term “transportation” includes--

**(A)** a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and **(B)** services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, packing, unpacking, and interchange of passengers and property.

Also, because the legislature cannot, however, prevent citizens from using the public highways in the ordinary manner. **7A Am. Jur. 2d Automobiles § 19 State regulation**

The public are entitled to a free passage along the highway.<sup>1</sup> The existence of a public highway creates a public easement of travel, which permits the general traveling public to use the highway at will.<sup>2</sup> **39 Am. Jur. 2d Highways, Streets, and Bridges § 145 Right of all to use Constitutional Law May 2021 Update.**

The public right to the use of a street for travel is absolute and paramount,<sup>1</sup> and greater than that of an individual to occupy it for other purposes.<sup>2</sup> Streets and highways are primarily for the benefit of the traveling public, and only incidentally for the benefit of property owners along them.<sup>3</sup> **39 Am. Jur. 2d Highways, Streets, and Bridges § 147 Superior rights of public. Constitutional Law May 2021 Update.** It is pretty clear at this point Driving is a regulated Occupation For Hire & Operators/Driver(s) license is an Occupational License see 16C C.J.S. Constitutional Law § 1531 Drivers' licenses PART VI. Privileges and Immunities; Equal Protection XVII. Subjects and Applications of Equal Protection Guarantee K. Taxation; Licenses, and License Taxes 2. **Licenses and License or Occupational Taxes** b. Motor Vehicles and Operators.

In contrast to the right to travel, the right to drive [**For-Hire**] is not a fundamental constitutional right<sup>1</sup> but a **privilege**.<sup>2</sup> Whenever an individual chooses to drive [**For-Hire**] an automobile in a state, he or she surrenders his or her individual liberties to the extent necessary for compliance with relevant traffic statutes and ordinances that are necessary for the general welfare of the public.<sup>3</sup> Revocation of the privilege to operate a motor vehicle on public roadways may properly be based on noncompliance with statutory law, and revocation is not an infringement on the revoke's right to travel.<sup>4</sup> **16A C.J.S. Constitutional Law § 796 Relating to driving.** When used in its broad sense, the word "taxes" may include a license fee.<sup>1</sup> Such fees may be imposed upon an occupation, business, or calling,<sup>2</sup> or the exercise of a privilege.<sup>3</sup> **51 Am. Jur. 2d Licenses and Permits § 4 License fees as "taxes" May 2021 Update**

One can clearly see **16A C.J.S. Constitutional Law § 796 Relating to driving.** In contrast to the right to travel, the right to drive [**For-Hire**] is not a fundamental constitutional right<sup>1</sup> but a **privilege**.<sup>2</sup> is closely related to **7A Am. Jur. 2d Automobiles § 13 Am Jur. Vehicles engaged in transportation for hire.** The use of highways for the purpose of transporting persons or property **for hire**, is a **special or permissive use** 2 [a **privilege**]. Because both sections § 796 & § 13 are about **a special or permissive use, the privilege to operate for hire**... No other conclusion would be logical as **16A Am. Jur. 2d Constitutional Law § 624. "Rights in public vehicles and places for purposes of liberty interest of Due Process Clause"** clearly states: **The right of a citizen to drive on a public street** with freedom from police interference, unless he or she is engaged in suspicious conduct associated in some manner with criminality, **is a fundamental constitutional right**. So, there is a clear distinction between **traveling by car which, is a fundamental constitutional right** and **operating a car for hire** which is a **special or permissive use a privilege**.

This is the only way revocation in § 796 is not an infringement on the revoke's right to travel. To read it any other way would make 16A C.J.S. Constitutional Law § 796 Relating to driving & 16A Am. Jur. 2d Constitutional Law § 624. "Rights in public



vehicles and places for purposes of liberty interest of Due Process Clause” **conflict** with each other, which would mean a conflict would exist in the Constitution. .

A conflict between constitutional amendments exists if one provision authorizes what the other forbids, § 796 forbids under the States reading what § 624 authorizes.

When possible, the interpretation of a constitutional provision will be harmonized with other provisions to avoid unreasonable or absurd results.<sup>20</sup> Every effort should be made to construe constitutional provisions harmoniously, and no provision should be construed to nullify or impair another.<sup>21</sup> Apparently conflicting provisions of a constitution<sup>22</sup> or ambiguous provisions should, if possible, be construed harmoniously.<sup>23</sup> **16 Am. Jur. 2d Constitutional Law § 66. Reading constitution as a whole; giving effect to every word and part 2021 Update.**

Neither should the judiciary indulge in or follow any ingenious refinements or subtlety of reasoning as to the meaning of its provisions.<sup>7</sup> A court will not construe a constitutional provision to arrive at a strained,<sup>8</sup> unpractical,<sup>9</sup> or absurd result.<sup>10</sup> **16 Am. Jur. 2d Constitutional Law § 77. Avoidance of narrow, technical, or absurd construction of constitutional provision 2021 Update.**

In other words, the supreme court will consider a constitutional amendment as a whole and, when possible, adopt an interpretation of the language which harmonizes different constitutional provisions rather than an interpretation which would create a conflict between such provisions.<sup>6</sup> **16 Am. Jur. 2d Constitutional Law § 67. Harmonizing constitutional amendments with antecedent constitutional provisions 2021 Update**

A conflict between constitutional amendments exists if one provision authorizes what the other forbids or forbids what the other authorizes.<sup>1</sup> Only where an irreconcilable conflict exists between different provisions of the constitution, the office of judicial construction is to determine which will prevail.<sup>2</sup> Distinct provisions of the constitution are repugnant to each other in such a way as to be irreconcilable only when they are related to the same subject, are adopted for the same purposes, and cannot be enforced without material and substantial conflict.<sup>3</sup> If there is a conflict between a general and a special or specific provision in a constitution, the special or specific provision must prevail in respect of its subject matter,<sup>7</sup> but the general provision will be left to control in cases where the special or specific provision does not apply.<sup>8</sup> Although the terms of an organic provision will not be strained to imply limitation upon the lawmaking power of the legislature where express and definite limitations are imposed by one section of organic law, amendments of other sections of the constitution will not be construed to remove such fixed limitations further than the terms of the amendment fairly require.<sup>9</sup> **16 Am. Jur. 2d Constitutional Law § 68. Irreconcilable conflict between separate provisions of constitution 2021 Update.**

The constitutional freedom to travel includes the freedom to enter and abide in any state in the Union.<sup>1</sup> However, the means or mode of traveling may be subjected to reasonable regulations.<sup>2</sup> State law implicates the constitutional right to travel when it actually deters such travel, when impeding travel is its primary objective, or when it uses any classification which it serves to penalize exercise of that right. **8 16A Am. Jur. 2d Constitutional Law § 623. Update 2021.**

The right to travel is a fundamental right, reasonable regulations; Is merely safe operation, can't run stop signs, exceed speed limits, or disregard traffic signals; license

would deter such travel, & impeded travel cause classification of licensed and unlicensed. Accordingly, restrictions on the right to travel cannot be dismissed by asserting that the right to travel can be fully exercised if the individual first gives up membership in a given association. **16D C.J.S. Constitutional Law § 2125. Due process considerations with respect to right to travel Westlaw. © 2021.**

This would include leaving the unlicensed group classification to become licensed. A constitutional provision must never be construed in such a manner as to make it possible for the will of the people to be frustrated or denied.<sup>12</sup> **16 Am. Jur. 2d Constitutional Law § 64. 2021 Update**

If a constitutional provision has received a settled judicial interpretation and is incorporated into a new constitution, it will be presumed to have been retained with knowledge of the previous construction and courts will be bound to adhere thereto.<sup>2</sup> **16 Am. Jur. 2d Constitutional Law § 90 2021 Update.** Conversely, the failure of the legislature to act cannot take away a right constitutionally granted.<sup>9</sup> **16 Am. Jur. 2d Constitutional Law § 102. 2021 Update.**

The vitality of constitutional principles also cannot be allowed to yield simply because of a disagreement with them.<sup>4</sup> Thus, an effort to accommodate community sentiment or the wishes of the majority of the voters, although usually valid and desirable, cannot justify the abandonment of a constitution or **fundamental constitutional rights**<sup>5</sup> **16 C.J.S. Constitutional Law § 7. Constitution not subject to suspension, departure, or abandonment.**

<sup>1</sup>Statutory law, in order to be valid, must conform to applicable constitutions both federal and state.<sup>1</sup> In other words, constitutional language controls legislative language.<sup>2</sup> Accordingly, constitutional provisions control in any conflict with lesser laws, such as statutes, local ordinances, administrative regulations,<sup>3</sup> and case law.<sup>4</sup> No statute can, therefore, breathe life into an instrument made and executed in contravention of a constitutional inhibition.<sup>5</sup> **16 C.J.S. Constitutional Law § 8. Conformance of statutory and common law to constitution.**

The right to travel is a part of the liberty of which a person cannot be deprived without due process of law. The right to travel is a fundamental right<sup>1</sup> and a part of the liberty of which a person cannot be deprived without due process of law<sup>2</sup> and is closely related to the rights of free speech and association.<sup>3</sup> It enjoys a unique and protected place in our national heritage<sup>4</sup> and is an important aspect of a citizen's liberty under the Fifth Amendment<sup>5</sup> and the Fourteenth Amendment.<sup>6</sup> Accordingly, restrictions on the right to travel cannot be dismissed by asserting that the right to travel can be fully exercised if the individual first gives up membership in a given association. **16D C.J.S. Constitutional Law § 2125. Due process considerations with respect to right to travel Westlaw. © update 2021** An individual's right to personal liberty is a fundamental right for equal protection purposes.<sup>1</sup> Other recognized fundamental rights, for purposes of equal protection analysis, include the right to vote, the right of interstate travel. **16C C.J.S. Constitutional Law § 1599. Civil or personal rights Westlaw. © 2021.** The right of interstate travel is a basic or fundamental right recognized and guaranteed by the Constitution. **16A C.J.S. Constitutional Law § 786 Interstate travel Westlaw. © 2021.** The people further have the unalienable right to use the streets and public places. Additionally, the guaranty of the rights and immunities of a citizen insures to him or her

the privilege of having those rights and immunities judicially declared and protected.  
16A C.J.S. Constitutional Law § 1207. Fourteenth Amendment February 2021.

Constitutional law is that department of the law which treats constitutions and the validity of enactments as tested by the criterion of conformity to fundamental law.<sup>1</sup> It is the field of law dealing with aspects of constitutional provisions, such as restrictions on government powers and guarantees of rights.<sup>2</sup> It is also the body of law deriving from the U.S. Constitution and dealing primarily with governmental powers, civil rights, and civil liberties.<sup>3</sup> In constitutional law, the word "constitution" implies the written instrument agreed upon by the people as the absolute rule of action and decision for all departments and officers of government, in respect to all points covered by it, which must control until it is changed by the authority which established it.<sup>4</sup> 16 C.J.S.

Constitutional Law § 4 . Constitutional law.

The word "constitution" means a declaration of fundamental laws or principles for the government of a nation or state.<sup>1</sup> A constitution is the fundamental law by which all people of the state are governed;<sup>2</sup> it is the basic charter of state governance.<sup>3</sup> A state constitution receives its force from the express will of the people<sup>4</sup> and is the embodiment of the will of the people<sup>5</sup> regarding the limits on governmental power.<sup>6</sup> The legitimacy of any constitution is derived primarily from the consent of those agreeing to be bound by it.<sup>7</sup> Where a constitution asserts a certain right or lays down a certain principle of law or procedure, it speaks for the entire people as their supreme law.<sup>8</sup> Whatever the constitution prescribes, the general assembly, and every officer or citizen to whom the mandate is addressed, must do, and whatever it prohibits, the general assembly, and every officer and citizen, must refrain from doing.<sup>9</sup> The government has broad powers, but the means it uses to achieve its ends must be consistent with the letter and spirit of the constitution.<sup>10</sup> A strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way.<sup>11</sup> The powers granted under the Constitution are not infinite; the power the Constitution grants, it also restrains.<sup>12</sup> Although a constitution may be either written (as in the case of the United States) or unwritten (as in the case of Great Britain), the word "constitution," as applied to the organization of our federal and state governments, always implies a written document which is understood to have been enacted by the direct action of the people.<sup>13</sup> A constitution is a fundamental document, which, in recognizing citizens' rights and establishing government, provides essential checks and balances whose complexity is to be neither undervalued nor disregarded.<sup>14</sup> 16 Am. Jur. 2d Constitutional Law § 1 2021 Update.

A constitution serves to protect the people against arbitrary power.<sup>1</sup> The basic purposes of a written constitution are to secure to people certain unchangeable rights and remedies and to curtail unrestricted governmental activity within defined fields.<sup>2</sup> The guarantees provided by the federal and state constitutions apply equally to all and cannot be denied to any one person without weakening the rights of all.<sup>3</sup> Indeed, a constitution is not primarily designed to protect majorities who are usually able to protect themselves but to preserve and protect the rights of individuals and minorities against the arbitrary actions of those in authority.<sup>4</sup> It is thus a function of constitutions to declare and protect fundamental rights.<sup>5</sup> A constitution is intended to preserve practical and substantial rights, not to maintain theories.<sup>6</sup> A constitution is, therefore, concerned with practical, substantial rights, not with those that are unclear and gain hold by subtle and



involved reasoning.<sup>7</sup> Constitutional rights cannot be created by statutes or rules,<sup>8</sup> nor can they be abrogated by executive or judicial action.<sup>9</sup> Further, the absence of an enabling statute cannot be construed to nullify rights provided by a constitution if those rights are sufficiently specific.<sup>10</sup> 16 C.J.S. Constitutional Law § 6 . Declaration and protection of fundamental rights.

The principal features of the American system of government established by the United States Constitution include representative government,<sup>9</sup> dual government involving both state and federal aspects,<sup>10</sup> the securing of individual rights<sup>§ 8</sup>. Purpose, application, and effect of United States..., and privileges through constitutional restrictions,<sup>11</sup> and a separation of powers among the legislative, executive, and judicial branches of either government, as well as between the governments themselves.<sup>12</sup> The Constitution of the United States was ordained and established not by the states in their sovereign capacities but, as the Preamble to the Constitution declares, by the people of the United States<sup>13</sup> and was adopted as their voluntary act for their own protection.<sup>14</sup> It was particularly intended to affect individuals rather than states.<sup>15</sup> citing: 16 Am. Jur. 2d Constitutional Law § 8. 2021 Update

"We the People of the United States were promised a Constitutional Republic, not a democracy. Thus, a republican form of government guaranteed to the states by the United States Constitution,<sup>3</sup> cannot be dispensed with or abolished.<sup>4</sup> 16 Am. Jur. 2d Constitutional Law § 21 Subject matter and permissible scope of amendments to state constitutions—Federal limitations. "We the People of the United States have been deprived of our Constitutional Republic for far too long with an aristocracy of lawyers making bogus excuses to ignore **fundamental constitutional rights protected** by this "Constitution for the United States of America."

"We the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defense, promote the general Welfare and secure the **Blessings of Liberty** to ourselves and our Posterity, did ordain and establish this Constitution for the United States of America."<sup>3</sup> 16 Am. Jur. 2d Constitutional Law § 10 Adoption of United States Constitution.

In the United States, the Congress and all of its members, as well as the President of the United States,<sup>11</sup> all state<sup>12</sup> and federal officials, and all state and federal courts and judges<sup>13</sup> are as bound by the United States Constitution as are ordinary citizens. 16 Am. Jur. 2d Constitutional Law § 6 2021 Update. This would include Sheriffs and all law enforcement, are bound by the United States Constitution.

A necessary inquiry in determining whether judges are immune from suit for money damages is whether, at the time a challenged action was taken, there was jurisdiction over the subject matter<sup>1</sup> and the parties.<sup>2</sup> Judges generally are not subject to liability in civil actions for their judicial acts unless they have acted in the clear absence of all jurisdiction.<sup>3</sup> 46 Am. Jur. 2d Judges § 74. Jurisdiction over subject matter and parties required for judicial immunity.